

**Introduced by Senator Calderon**

February 28, 1997

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An act to repeal and add Section 5061 of the Business and Professions Code, relating to accountancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1289, as introduced, Calderon. Public accountancy: commissions.

Existing law prohibits any person engaged in the practice of public accountancy from paying a commission to obtain a client, or from accepting a commission for a referral to a client of products or services of others. Existing law further provides that these provisions shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals presently or formerly engaged in the practice of public accounting or payments to their heirs or estates.

This bill would repeal the above provisions and instead would prohibit a licensee under the public accountancy provisions from recommending or referring to a client, for a commission, any product or service, or recommending or referring, for a commission, any product or service to be supplied by a client, or receiving a commission when that licensee or that licensee's firm also performs specified services. The bill would also require a licensee who is not prohibited from performing services for a commission, or from receiving a commission, and who is paid or expects to be paid a commission, to disclose that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates, and would require a

licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity, or who pays a referral fee to obtain a client, to disclose that acceptance or payment to the client.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5061 of the Business and  
2 Professions Code is repealed.

3 ~~5061. No person engaged in the practice of public~~  
4 ~~accountancy shall pay a commission to obtain a client, nor~~  
5 ~~shall that person accept a commission for a referral to a~~  
6 ~~client of products or services of others. This section shall~~  
7 ~~not prohibit payments for the purchase of an accounting~~  
8 ~~practice or retirement payments to individuals presently~~  
9 ~~or formerly engaged in the practice of public accounting~~  
10 ~~or payments to their heirs or estates.~~

11 SEC. 2. Section 5061 is added to the Business and  
12 Professions Code, to read:

13 5061. (a) A licensee may not recommend or refer to  
14 a client, for a commission, any product or service, or  
15 recommend or refer, for a commission, any product or  
16 service to be supplied by a client, or receive a commission  
17 when that licensee or that licensee's firm also performs  
18 for that client any of the following services:

19 (1) An audit or review of a financial statement.

20 (2) A compilation of a financial statement when that  
21 licensee expects, or reasonably might expect, that a third  
22 party will use the financial statement and the licensee's  
23 compilation report does not disclose a lack of  
24 independence.

25 (3) An examination of prospective financial  
26 information.

27 (b) The prohibition specified in subdivision (a)  
28 applies during the period in which the licensee is engaged  
29 to perform any of the services listed, and during the  
30 period covered by any historical financial statements  
31 involved in those listed services.

1 (c) A licensee who is not prohibited under subdivision  
2 (a) from performing services for a commission, or from  
3 receiving a commission, and who is paid or expects to be  
4 paid a commission, shall disclose that fact to any person  
5 or entity to whom the licensee recommends or refers a  
6 product or service to which the commission relates.

7 (d) A licensee who accepts a referral fee for  
8 recommending or referring any service of a licensee to  
9 any person or entity, or who pays a referral fee to obtain  
10 a client, shall disclose that acceptance or payment to the  
11 client.

